

# COBBETT'S WEEKLY POLITICAL REGISTER.

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## TO THE READERS OF THE REGISTER.

I trust, that, when the situation, in which I am now placed, is considered, I shall be excused for not having any thing of my own to present to the public.— Since the *Trial*, I have been compelled to leave my home (to which I hastened on the day of the Trial), in order to go to London to put in bail for my appearance to receive judgment. From London it was absolutely necessary to return hither, in order to make some little arrangement in my affairs here, which have, hitherto, been always managed by myself. To do this, even in a very imperfect manner, would require every moment of the time that I can remain here; and, therefore, I think that no apology will be thought necessary for my not writing any thing for publication this week. Indeed, to write to any purpose, with one's mind and heart pulled so many ways is impossible. It would be vain to attempt it.

WM. COBBETT.

Botley, June 29, 1810.

N. B. It was my intention to have closed the Volume with this Number, but there has not been time to make out the INDEXES and TABLES.

*Second Report from the Select Committee on Proceedings relative to Sir Francis Burdett.*—[Ordered, by the House of Commons, to be printed, 23d May 1810. —For First Report, see p. 859.]

The SELECT COMMITTEE appointed to consider of the Proceedings had, and

to be had, with reference to the several Papers signed "Francis Burdett;"—the Contents of which related to his being apprehended and committed to the Tower of London, and which Papers were communicated to the House, by Mr. Speaker, upon the 13th and 17th days of April last;—and to report such facts, as they may think necessary, together with their opinion thereupon, from time to time, to the House;—And to whom the matters stated by the Serjeant at Arms attending the House, and the Process served upon him in an Action at Law by Sir Francis Burdett;—and also the Summons served on Mr. Speaker, and the Notice of Declaration delivered to the Serjeant at Arms, at the Suit of the said Sir Francis Burdett; were referred;—And to whom the Report was re-committed, which was made from the said Committee;—Have, pursuant to the Orders of the House, further considered the matters referred to them; and have agreed to the following REPORT:

Your Committee, resuming the consideration of the principal matters reserved in their former Report, do not think it necessary to state all the various Precedents which are to be found of the exercise of the power of Commitment by the House of Commons for Breaches of Privilege and Contempt in general, conceiving that to be a power too clear to be called in question, and proved, if proof were necessary, by the same Precedents, which they have collected with a view to the point to which they have more immediately directed their attention, and which Precedents are subjoined to their Report. —The Cases which your Committee have selected as most directly connected with the subject referred to them, are those of Commitments for Libel, an offence which tends to excite popular misapprehension and disaffection, endangers the freedom of the Debates and Proceedings in Parliament, and requires the most prompt interposition and restraint. The effect

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of immediate punishment and example is required to prevent the evils necessarily arising from this offence, which evil it is obvious would be much less effectually guarded against by the more dilatory proceedings of the ordinary Courts of Law; nevertheless upon some occasions the House of Commons have proceeded against persons committing such offences, by directing Prosecutions, or by addressing his Majesty to direct them, as appears by the Precedents collected in the Appendix.—From the series of Precedents which your Committee find on your Journals, it will most clearly appear that the House of Commons have treated Libels as Contempts; that they have frequently punished the Authors and Publishers of them by Commitment, whether those Authors and Publishers were or were not Members of the House; and that this power has been exercised at all times, as far back as the Journals afford an opportunity of tracing it. And your Committee cannot forbear observing, that the Precedents subjoined to their Report establish this Law of Parliament, upon the ground and evidence of an immemorial usage, as strong and satisfactory as would be held sufficient in a Court of Law, for the establishment of any legal right.—Your Committee also beg leave to observe, that the general power of Commitment was solemnly asserted by the House of Commons in 1675, and in their Resolutions of 1701; and was also claimed by the House of Commons, and admitted by the House of Lords in the most explicit terms, in the Conference between the two Houses in the case of Ashby and White, in 1704; although other points arising in that case were strongly controverted between the two Houses.—Your Committee further state, that it has been recognized by legal authority, and by the most solemn decisions of the Courts of Law on various occasions, whenever any question upon it has been brought before them:—By eleven of the Judges—in the Case of the Aylesbury Men. 2 Lord Raym. p. 1105. 3 Wils. p. 205.—By the Court of King's Bench—in Murray's Case. 1 Wils. p. 299. 1751. By the Court of Common Pleas—in the Case of Brass Crosby. 3 Wils. p. 203. 1771.—By the Court of Exchequer—in the Case of Oliver. 1771.—And that this power of Commitment by either House of Parliament, was further recognised by the Court of King's Bench in the Case of Benjamin

Flower, 8 Term Reports, p. 323, who had been committed by the House of Lords. And your Committee have not found the authority of a single decision to the contrary in any Court whatever.—Your Committee also beg leave to state, that the Judges of the Common Law have considered Libels upon their Courts or the proceedings in judicature as Contempts, and have frequently punished the authors and publishers of them by summary commitment. This appears from various instances stated in the Appendix which have occurred both in Courts of Law and Equity.—Amongst the Judges who have concurred in those decisions, upon the power of Parliament and of the Courts of Law and Equity to commit for such Contempts, are to be found Lawyers the most distinguished for their zealous regard for the liberty of the subject, and the most upright, able and enlightened men that ever adorned the seat of justice; and the doctrines laid down by them all coincide with the opinion solemnly delivered by Lord Chief Justice De Grey in Crosby's Case, that the power of Commitment is "inherent in the House of Commons from the very nature of its institution, and that they can commit generally for all contempts." 3 Wils. p. 198.—Under all these circumstances, your Committee can have no hesitation in submitting their decided opinion, that the power of Commitment for a Libel upon the House, or upon its members, for or relative to any thing said or done therein, is essential to the Freedom of Debate, to the Independence of Parliament, to the security of the Liberty of the Subject, and to the general preservation of the State.—This power is in truth part of the fundamental Law of Parliament; the Law of Parliament is the Law of the Land; part of the Lex Terræ, mentioned in Magna Charta, where it is declared, that "no Freeman shall be taken or imprisoned but by lawful judgment of his Peers, or by the Law of the Land;" and it is as much within the meaning of these words, "the Law of the Land," as the universally acknowledged power of Commitment for Contempt by the Courts of Justice in Westminster Hall, which Courts have inherent in them the summary power of punishing such Contempts by Commitment of the Offenders, without the intervention of a Jury.—Your Committee therefore are of Opinion, That this Power is founded on the clearest princi-



ples of expediency and right, proved by immemorial usage, recognised and sanctioned by the highest legal Authorities, and analogous to the power exercised without dispute by Courts of Justice; that it grew up with our Constitution; that it is established and confirmed as clearly and incontrovertibly as any part of the Law of the Land, and is one of the most important safeguards of the Rights and Liberties of the People.

*Extracts from the Appendix.*

CLAIM AND RECOGNITION of the Privileges of Parliament, and the power of Commitment.

11 Rich. II.—Rot. Parl. Vol. iii. p. 244.—En yeest Parlement, toutz les Seign'rs si bien Espiritels come Temporels alors presentz clamerent come leur Libertee & Franchise, q'les grosses matires moevez en cest Parlement, & a movers en autres Parlementz en temps a venir, tochantz Pieres de la Terre, serroient demesnez, ajuggez, & discus par le cours de Parlement, & nemye par la Loy Civile, ne par la Commune Ley de la Terre, usez en autres plus bas Courtes du Roialme: quell claym, liberte, & franchise le Roy leur benignement alloua & ottoia en plein Parlement.

32 Hen. VI.—Rot. Parl. Vol. v. p. 239.—Thorp's Case.—The seid Lordes Spirituelx and Temporelx not entendyng to empeche or hurt the Libertees and Privileges of theym that were com'en for the Commune of this lande to this present Parlement, but egally after the cours of lawe to mynystre justice, and to have knowlegge what the law will wey in that behalve, opened and declared to the Justices the premisses, and axed of them whether the seid Thomas ought to be delivered from prison, by force and vertue of the Privelegge of Parlement or noo. To the which question the chefe Justce, in the name of all the Justicez, after sadde communication and mature deliberation hadde among theim, answered and said, that they ought not to aunswere to that question, for it hath not be used afore tyme that the Justicez should in eny wyse determine the Privelegge of this high Court of Parlement.

4 Hen. VII.—The original Roll in the Parliament Office.—Stroud's Case.—This is the act conc'nyng Richard Stroude for matt' resoned in the P'liament.—The act begins by reciting the Petition of Rd. Stroude, and after that fecital proceeds thus:

Henry R. *Soit baill aux Senio's.*

And on that be it inacted by the seide Autorite, That al suts, accusementis, condempnacons, execucions, fynys, am'ciamentis, punysshements, correcons, grev'ncez, charges, & impositions putt or hadde or her aft' to be put or hadde unto or upon the seide Richard, and to every other of thep'son or p'son afore specyfyed that now be of this p'sent P'liament or that of any P'liament her after shall be for any bylle speyking, reasonyng or declaryng off any mat' or maters conc'nyng the P'liament to be comenced and treated off, be utt'ly voyde & of none effecte, and on that be hyt inacted by the seide Autorite, That if the seide Richard Strode or any of all the seide other p'son or persons her after be vexy'd, trobeled or other wyse charged for any causes as is aforesaide, that then he or they & every of them so vexed or troubled off and for the same, have acc'on upon the case agaynste ev'ry such p'son or p'sons so vexyng or trobelyng any cot'rie to this Ordin's & p'vision, in the whych acc'on the p'tie greyv'd shall be recov' treby'll damages & costis & that no p'tecon, essouie nor wagger of Lawe yn the seide acc'on in anywise be admytted nor receyvid.

A Ce'st Bill Ley Seinos ss Assent.

1606.—Com. Journ. Vol. i. p. 349.—The Commons tell the Lords "that they doubt not, but the Commons House is a Court, and a Court of Record."

1620.—Com. Journ. Vol. i. p. 545.—In a Report of Precedents by sir Edward Coke, it is agreed, "The House of Commons, alone, hath a power of punishment, and that judicial."—Hall's Case 23 Elizth. and Long's Case 5th Elizth. cited.

1675, June 4th.—Com. Journ. Vol. ix. p. 354.—In the matter of the appellant Jurisdiction of the House of Lords, the Commons assert their right "to punish by imprisonment a Commoner that is guilty of violating their privileges, that being according to the known Laws and Custom of Parliament and the right of their Privileges declared by the King's Royal Predecessors in former Parliaments and by himself in this;" and "that neither the Great Charter, the Petition of Right, nor any other Laws, do take away the Law and Custom of Parliament, or of either House of Parliament."

1701.—Vol. xiii, p. 767.—Kentish Petition.—Resolved, That it is the Opinion of this Committee, that to assert the House of Commons have no power of Commit-



ment, but of their own Members, tends to the subversion of the Constitution of the House of Commons.

Resolved, That it is the Opinion of this Committee, That to print or publish any Books or Libels reflecting upon the proceedings of the House of Commons, or any member thereof, for or relating to his service therein, is a high violation of the Rights and Privileges of the House of Commons.

Ashby & White.—Conferences between the two Houses.

The Commons at the second Conference with the Lords re-assert their Resolution of 1701 :

“ For it is the ancient and undoubted right of the House of Commons to commit for breach of Privilege ; and the instances of their committing persons (not Members of the House) for breach of Privilege, and that to any her Majesty’s prisons, are ancient, so many, and so well known to your Lordships, that the Commons think it needless to produce them.”—Lords Journ. Vol. xvii. p. 709.

Lords Journ. Vol. xvii. p. 714.

The Lords in answer say,—“ The Lords never disputed the Commons power of committing for breach of Privilege, as well persons who are not of the House of Commons as those who are,” &c.

RECOGNITION of the Law and Privilege of Parliament, and of the Power of the House of Commons to commit for Contempt, by Legal Authorities, and by the Decision of Courts of Justice.

Coke, 4 Inst. fo. 15.—Lord Coke observes upon the Claim of the Lords, in 11 of Rich. II. sanctioned by the King (as stated in the first paragraph of Appendix C.) under the head of ‘ Lex et Consuetudo Parliamenti ;’ as followeth—“ And as every Court of Justice hath Laws and Customs for its direction, some by the Common Law, some by the Civil Law and Common Law, some by peculiar Laws and Customs, &c. so the High Court of Parliament—*suis proprijs legibus et consuetudinibus subsistit*—It is *lex et consuetudo Parliamenti*, that all weighty matters in any Parliament, moved concerning the Peers of the Realm, or Commons in Parliament assembled, ought to be determined, adjudged, and discussed by the course of Parliament and not by Civil Law, nor yet by the Common Laws of this Realm used in inferior Courts ; which was so declared to be—*secundum legem et consuetudinem*

Parliamenti—concerning the Peers of this Realm, by the King, and all the Lords Spiritual and Temporal : And the like, *pari ratione*, is for the Commons for any thing moved or done in the House of Commons.”

Coke, 4 Inst. fo. 50.—And on another occasion, in treating of the Laws, Customs, Liberties and Privileges of the Court of Parliament, which he saith, “ hath been much desired, and are the very heart-strings of the Commonwealth ;” Lord Coke says,—“ All the Justices of England and Barons of the Exchequer, are assistants to the Lords to inform them of the Common Law, and thereunto are called severally by writ : neither doth it belong to them (as hath been said) to judge of any Law, Custom, or Privilege of Parliament : And to say the truth, the Laws, Customs, Liberties, and Privileges of Parliament, are better to be learned out of the Rolls of Parliament, and other Records, and by Precedents and continued experience, than can be expressed by any one man’s pen.”

26 Car. II.—1674.—State Trials, Vol. vii. p. 449.—Soame’s Case.—Lord Chief Justice North said,—“ I can see no other way to avoid consequences derogatory to the honour of the Parliament, but to reject the action ; and all others that shall relate either to the Proceedings or Privilege of Parliament, as our predecessors have done. For if we should admit general remedies in matters relating to the Parliament, we must set bounds how far they shall go, which is a dangerous province ; for if we err, Privilege of Parliament will be invaded, which we ought not in any way to endamage.”

1675.—State Trials, Vol. ii. p. 622.—Earl of Shaftesbury’s Case.—In the Case of the Earl of Shaftesbury, who was committed by the House of Lords, “ for high contempts committed against the House,” on being brought up to the King’s Bench on the Return of an Habeas Corpus, the Court unanimously determined against entertaining the case ; when Rainsford, Chief Justice, said, “ This Court has no jurisdiction of the Cause, and therefore the form of the Return is not considerable. We ought not to extend our jurisdiction beyond its limits, and the actions of our ancestors will not warrant such an attempt.—The consequence would be very mischievous, if this Court should deliver a Member of the House of Peers and Commons who are committed, for thereby the



business of Parliament may be retarded; for it may be the commitment was for evil behaviour, or indecent reflections on other Members, to the disturbance of the affairs of Parliament. The commitment in this case is not for safe custody; but he is in execution of the judgment given by the Lords for contempt; and therefore if he should be bailed, he would be delivered out of execution; for a contempt *in facie curiæ* there is no other judgment or execution. This Court has no jurisdiction, and therefore he ought to be remanded. I deliver no opinion whether it would be otherwise in case of a Prerogative."

1751, Feb. 7th.—1 Wilson p. 200—Murray's Case.—When he was brought up to the King's Bench by a Habeas Corpus, and the Court unanimously refused to discharge him, Mr. Justice Wright said, "It appears upon the Return of this Habeas Corpus, that Mr. Murray is committed to Newgate by the House of Commons, for an high and dangerous contempt of the Privileges of that House; and it is now insisted on at the bar, that this is a bailable case, within the meaning of the Habeas Corpus Act.—To this I answer, that it has been determined by all the Judges to the contrary; that it could never be the intent of that Statute to give a Judge at his chamber, or this Court, power to judge of the Privileges of the House of Commons.—The House of Commons is undoubtedly an high Court; and it is agreed on all hands that they have power to judge of their own Privileges; it need not appear to us what the contempt was for; if it did appear, we could not judge thereof.—Lord Shaftesbury was committed for a contempt of the House; and being brought here by an Habeas Corpus, the Court remanded him; and no case has been cited wherever this Court interposed.—The House of Commons is superior to this Court in this particular: this Court cannot admit to bail a person committed for a contempt in any other Court in Westminster Hall."

Dennison, Justice.—"This Court has no jurisdiction in the present case. We granted the Habeas Corpus, not knowing what the commitment was; but now it appears to be for a contempt of the Privileges of the House of Commons; what those Privileges (of either House) are, we do not know; nor need they tell us what the contempt was, because we cannot judge of it; for I must call this Court inferior to the House of Commons with respect to

judging of their Privileges, and Contempts against them. I give my judgment so suddenly, because I think it a clear case, and requires no time for consideration.

Foster, Justice.—"The Law of Parliament is part of the Law of the Land; and there would be an end of all Law, if the House of Commons could not commit for a Contempt. All Courts of Record (even the lowest) may commit for a Contempt; and Lord Holt, though he differed with the other Judges, yet agreed the House might commit for a Contempt in the face of the House. As for the Prisoner's illness, we can take no notice of it, having no power at all in this case."

The Prisoner was remanded.

1771.—3 Wils. 188.—Crosby's Case.—In the year 1771, Brass Crosby, esq. the Lord Mayor, who was committed to the Tower by order of this House, under the Speaker's Warrant, on 25th March, 1771, was brought up by Habeas Corpus before the Court of Common Pleas in Easter Term. The Question was fully argued, and, by the unanimous judgment of the Court, he was remanded.

The Lord Chief Justice de Grey, in giving the opinion of the Court, stated, "That this power (viz. of commitment) must be inherent in the House of Commons, from the very nature of its institution; and therefore is part of the Law of the Land. They certainly always could commit in many cases; in matter of Elections, they can commit Sheriffs, Mayors, Officers, Witnesses, &c. and it is now agreed, that they can commit generally for all Contempts. All Contempts are either punishable in the Court contemned, or in some higher Court. Now the Parliament has no superior Court; therefore the Contempt against either House, can only be punished by themselves."

"The Stat. of James I, cap. 13, sufficiently proves that they have power to punish it, in these words: 'Provided always, that this Act or any thing therein contained shall not extend to the diminishing of any punishment to be hereafter by censure in Parliament inflicted upon any person which hereafter shall make or procure to be made any such arrest as aforesaid;' so that it is most clear that the Legislature have recognized this power of the House of Commons. In the case of the Aylesbury Men, the Counsel admitted, Lord Chief Justice Holt owned, and the House of Lords acknowledged, that the House of Commons had

power to commit for Contempt or breach of Privilege. Indeed, it seems they must have power to commit for any crime. When the House of Commons adjudge any thing to be a Contempt or a breach of Privilege, their adjudication is a conviction, and their commitment in consequence an execution; and no Court can discharge or bail a person that is in execution by the judgment of any other Court."

And he concluded his judgment in these words:

"I am perfectly satisfied that if Lord Holt himself were to have determined it, the Lord Mayor would have been remanded. In the case of Mr. Murray, the Judges could not hesitate concerning the contempt by a man who refused to receive his sentence in a proper posture; all the Judges agreed, that he must be remanded, because he was committed by a Court having competent jurisdiction. Courts of Justice have no cognizance of the acts of the Houses of Parliament, because they belong *ad aliud examen*. I have the most perfect satisfaction in my own mind in that determination. Sir Martin Wright, who felt a generous and distinguished warmth for the liberty of the Subject; Mr. Justice Denison, who was so free from connections and ambition of every kind; and Mr. Justice Foster, who may be truly called the Magna Charta of liberty, of persons as well as fortune; all these revered Judges concurred in this point. I am therefore clearly and with full satisfaction of opinion, that the Lord Mayor must be remanded."

Gould, Justice.—"I entirely concur in opinion with my Lord Chief Justice, that this Court hath no cognizance of Contempts or breach of Privilege of the House of Commons; they are the only Judges of their own Privileges; and that they may be properly called Judges, appears in 4 Inst. 47, where my Lord Coke says, an alien cannot be elected of the Parliament, because such a person can hold no place of judicature. Much stress has been laid upon an objection, that the Warrant of the Speaker is not conformable to the Order of the House; and yet no such thing appears upon the Return, as has been pretended. The Order says, that the Lord Mayor shall be taken into the custody of the Serjeant or his Deputy; it does not say, by the Serjeant or his Deputy. This Court cannot know the nature and power of the proceedings of the House

of Commons; it is founded on a different law; the *Lex et Consuetudo Parliamenti*, is known to Parliament men only. Trewynard's case, Dier, 59, 60. When matters of Privilege come incidentally before the Court, it is obliged to determine them, to prevent a failure of justice. It is true this Court did, in the instance alluded to by the Counsel at the Bar, determine upon the Privilege of Parliament in the case of a Libel; but then that Privilege was promulged and known; it existed in records and law books, and was allowed by Parliament itself. But even in that case, we now know that we were mistaken; for the House of Commons have since determined, that Privilege does not extend to matters of Libel. The cases produced respecting the High Commission Court, &c. are not to the present purpose, because those Courts had not a legal authority. The Resolution of the House of Commons is an adjudication, and every Court must judge of its own contempts.

Blackstone, Justice.—"I concur in opinion, that we cannot discharge the Lord Mayor. The present case is of great importance, because the liberty of the Subject is materially concerned. The House of Commons is a supreme Court, and they are Judges of their own Privileges and Contempts, more especially with respect to their own Members.—Here is a Member committed in execution by the judgment of his own House. All Courts, by which I mean to include the two Houses of Parliament and the Courts of Westminster Hall, can have no control in matters of Contempt. The sole adjudication of Contempts, and the punishment thereof, in any manner, belongs exclusively, and without interfering, to each respective Court. Infinite confusion and disorder would follow, if Courts could by Writ of Habeas Corpus examine and determine the Contempts of others. This power to commit results from the first principles of justice; for if they have power to decide, they ought to have power to punish. No other Court shall scan the judgment of a superior Court, or the principal Seat of Justice. As I said before, it would occasion the utmost confusion, if every Court of this Hall should have power to examine the commitments of the other Courts of the Hall for contempts; so that the judgment and commitment of each respective Court as to contempts, must be final and without control. It is a confidence that may, with perfect safety and secu-





city, be reposed in the Judges and the Houses of Parliament. The Legislature since the Revolution (see 9 & 10 W. III. c. 15.) have created many new contempts. The objections which are brought, of abusive consequences, prove too much, because they are applicable to all Courts of dernier resort: 'et ab abusu ad usum non valent consequentia,' is a maxim of law as well as of logic. General convenience must always outweigh partial inconvenience; even supposing (which in my conscience, I am far from supposing) that in the present case the House has abused its power. I know, and am sure that the House of Commons are both able and well inclined to do justice. How preposterous is the present murmur and complaint! The House of Commons have this power only in common with all the Courts of Westminster Hall: and if any persons may be safely trusted with this power, they must surely be the Commons, who are chosen by the people; for their privileges and powers are the privileges and powers of the people. There is a great fallacy in my brother Glynn's whole argument, when he makes the question to be, Whether the House have acted according to their right or not?—Can any good man think of involving the Judges in a contest with either House of Parliament, or with one another? And yet this manner of putting the question would produce such a contest. The House of Commons is the only Judge of its own proceedings: Holt differed from the other Judges in this point, but we must be governed by the eleven, and not by the single one. It is a right inherent in all supreme Courts; the House of Commons have always exercised it. Little nice objections of particular words, and forms and ceremonies of execution, are not to be regarded in the acts of the House of Commons; it is our duty to presume the Orders of that House, and their execution, are according to law. The Habeas Corpus in Murray's case was at Common Law. I concur entirely with my Lord Chief Justice."

1771. *Oliver's Case.*—And in Mr. Alderman Oliver's case, argued in the Court of Exchequer on the 27th of April 1771, the four Judges, Chief Baron Parker, Mr. Baron Smythe, Mr. Baron Adams, and Mr. Baron Perrot, unanimously acknowledged in like manner the right of the House of Commons to commit.

1779.—*Durnford and East's Report, K. B.*

Book 8. p. 314.

*Flower's Case.*—In the case of Flower, committed by the House of Lords, for a libel on the Bishop of Landaff, on his being brought up to the King's Bench upon Habeas Corpus,

Lord Kenyon, Chief Justice, said—"If we entertained any doubts upon this subject, it would be unbecoming in us to rush to a speedy decision without looking through all the cases cited by the Defendant's Counsel; but not having any doubts, I think it best to dispose of the case at once. The cases that have been referred to are all collected in Lord Hale's Treatise on the Jurisdiction of the Lords' House of Parliament, and that valuable Preface to it published by Mr. Hargrave; but in the whole of that publication the Defendant's Counsel has not found one case applicable to the present. This is one of the plainest questions that ever was discussed in a Court of Law. Some things, however, have dropped from the learned Counsel that require an answer:—First, it is said that the House of Lords is not a Court of Record: that the House of Lords when exercising a legislative capacity is not a Court of Record, is undoubtedly true; but when sitting in a judicial capacity, as in the present case, it is a Court of Record. Then it was objected, that the Defendant was condemned without being heard in his defence: but the warrant of commitment furnishes an answer to that; by that it appears, that 'he was informed of the complaint made against him,' &c. and having been heard as to what he had to say in answer to the said complaint, &c. he was adjudged 'guilty of a high breach of the Privileges of the House,' &c. so that it clearly appears that he was heard in his defence, and had the same opportunity of calling Witnesses, that every other Defendant has in a Court of Justice. Then insinuations are thrown out against the encroachments by the House of Lords on the liberties of the Subject: but the good subjects of this country feel themselves protected in their liberties by both Houses of Parliament. Government rests in a great degree on public opinion; and if ever the time shall come, when factious men will overturn the Government of the Country, they will begin their work by calumniating the Courts of Justice and both Houses of Parliament.—The ground of this proceeding is, that the Defendant has been guilty of a breach of Privileges of the House, and a

contempt of the House. This claim of right to punish by fine and imprisonment for such an offence, is not peculiar to the House of Lords; it is frequently exercised by this and other Courts of Record, and that not merely for contempts committed in the presence of the Court: One instance of which was that of Mr. Beardmore\*, Under Sheriff of Middlesex, for a contempt of the Court in not executing part of the sentence pronounced on Dr. Shebbeare. And that case answers another objection, strongly insisted on by the Defendant's Counsel here, that if the party accused can be punished in any other manner, this mode of trial cannot be resorted to; for there Mr. Beardmore might have been indicted, but yet he was attached, examined upon interrogatories, and fined and imprisoned. Again it is objected, that the House of Lords cannot impose a fine for such an offence: but this and other Courts of Record have the power of fining in this summary manner; and why should not the House of Lords have the same power of imposing a fine for a contempt of their privileges? Then several instances were alluded to, where the House did not choose to exercise this privilege, but directed prosecutions to be instituted in the Courts of Law. The same observations might equally be made on the proceedings of this Court, who have sometimes directed indictments to be preferred. We are not therefore to conclude that the House of Lords has not the power of inflicting this punishment, from the circumstance of its not exercising it on all occasions. When Lord Shaftesbury's case came on, there were some persons who wished to abridge the Privileges of the House of Lords: but Mr. Serjeant Maynard was one of those who argued in support of their Privileges; and he surely was not capable of concurring in any attempt to infringe the liberties of the people. It has been said, however, that though many instances are to be found in which the House of Lords has in point of fact exercised this power, whenever that power has been resisted it has been resisted with effect; from whence it is inferred, that the House of Lords has not the authority which it assumes: but in this case I may avail myself of the same argument in favour of its jurisdiction, for no case has been found where it has been holden to be illegal in the House of Lords to fine

and imprison a person guilty of a breach of Privilege. We were bound to grant this Habeas Corpus; but having seen the Return to it, we are bound to remand the Defendant to prison, because the subject belongs to 'aliud examen.' There is nothing unconstitutional in the House of Lords proceeding in this mode for a breach of Privilege; and unless we wish to assist in the attempt that is made to upset the Law of Parliament and the Constitution, we must remand the Defendant."

Grose, J.—"This question is not new; it has frequently been considered in Courts of Law; and the principles discussed to-day, and the Cases cited, were examined not many years ago; and the result is very ably stated by Lord Ch. Just. De Grey, in 3 Wils. 199. 'When the House of Commons (and the same may be said of the House of Lords) adjudge any thing to be a Contempt or a breach of Privilege, their adjudication is a conviction, and their commitment in consequence, is execution; and no Court can discharge or bail a person that is in execution by the judgment of any other Court.' In another passage he said 'Every Court must be sole judge of its own contempts.' And again, 'The Counsel at the Bar have not cited one case where any Court of this Hall ever determined a matter of Privilege which did not come immediately before them.'

"Having stated this, I think I need not add more in the present case."

Per Curiam\*.

Let the Defendant be remanded.

CASES of Commitments for Contempt by Courts of Justice.

#### ANALOGY.

In Michaelmas Term 18 Edward III.—John De Northampton, an Attorney of the Court of King's Bench, confessing himself guilty of publishing a Libel upon the Court, was committed to the Marshal, and ordered to find securities for his good behaviour.—3 Inst. 174.

Hilary Term 11 Ann.—A Writ of Attachment was issued against Thomas Lawson, for speaking disrespectful words of the Court of Queen's Bench, upon his being served with a rule of that Court.

\* Mr. Justice Lawrence was not in Court, being indisposed; and Mr. Justice Le Blanc, having attended at the Guildhall Sittings for Lord Kenyon, and not returning till the argument was closed; gave no opinion.

\* Vide 2 Burr. 792.



Hilary 12 Ann.—A Writ of Attachment was granted against Edward Hendale, for speaking disrespectful words of the Lord Chief Justice of the Court of Queen's Bench, and his Warrant.

Trinity Term 5 George I.—A Writ of Attachment against ——— Jones, for treating the Process of the Court of King's Bench contemptuously; and there being an intimation that he relied on the assistance of his fellow-workmen to rescue him, the Court sent for the Sheriff of Middlesex into Court, and ordered him to take a sufficient force —1 Strange 185.

Michaelmas Term 6 Geo. I.—A Writ of Attachment was granted to Richard Lamb, for contemptuous words concerning a Warrant from a Judge of the Court of King's Bench.

Easter Term 6 Geo. I.————Wilkins having confessed himself guilty of publishing a Libel upon the Court of King's Bench, the Court made a rule committing him to the Marshal.

The next Term Wilkin having made an affidavit charging Dr. Colebatch with being the author of the Libel, was sentenced to pay a fine of £. 5. and to give security for his good behaviour for a year.

Hilary Term 7 Geo. I.—An Attachment was granted against John Barber, Esquire, for contemptuous Words of the Court of King's Bench, in a speech to the Common Council of London.—1 Strange 443.

Hilary Term, 9 Geo. I.—Doctor Colebatch having been examined upon interrogatories, for contempt in publishing a Libel, the interrogatories and answer were referred to the King's Coroner and Attorney, and

In Easter Term 9 Geo. I.—Dr. Colebatch, being in the custody of the Marshal, was brought into Court, and was sentenced to pay a fine of £. 50. and to give security for his good behaviour for a year, and was committed to the Marshal in execution.

Michaelmas Term 9 Geo. I.—A Writ of Attachment was granted against John Bolton, Clerk, for contemptuous words respecting the Warrants of the Lord Chief Justice of the Court of King's Bench, at a meeting of his parishioners in the Church-yard.

Easter Term 9 Geo. I.—John Wyat, a bookseller in St. Paul's Church-yard, published a pamphlet written by Dr. Conyers Middleton, in the dedication of which to the Vice-Chancellor of Cambridge, were some passages reflecting upon a proceed-

ing of the Court of King's Bench; the Court granted a Rule against Wyat to shew cause why a Writ of Attachment should not issue against him for his contempt; and Wyat having made an affidavit that Cornelius Crownfield had employed him to sell the pamphlet, and he having charged Dr. Conyers Middleton with being the author of it, Crownfield was discharged upon payment of the costs, and a Writ of Attachment was granted against Dr. Conyers Middleton, who, in the next term, gave bail to answer the contempt; he was afterwards examined upon interrogatories, and upon the report of the King's Coroner and Attorney he was adjudged to be in contempt, and was committed to the Marshal in execution *quousque*, &c. and it was referred to the Master to tax the Prosecutor's costs.

It is stated in Fortescue's Reports, that Dr. Middleton was sentenced to pay a fine of £. 50, and to give security for a year; but no rule for such sentence has at present been found; and Dr. Colebatch having received such a sentence, for a similar offence, in the preceding term, it is possible that this sentence may, by mistake, have been applied to Dr. Middleton.

Michaelmas Term 5 Geo. II.—The Court granted a Writ of Attachment against lady Lawley, for a contempt in publishing a paper reflecting upon the proceedings of the Court; and she having been examined upon interrogatories, was in Easter Term following reported by the Officer of the Court to be in contempt, and was committed to the marshal.

And in Trinity Term 6 Geo. II. she was brought into Court, and a Rule made, stating that "*fecit submissionem suam petivit veniam de curiâ;*" and thereupon she was fined five marks and discharged.

Mark Halpenn, the husband of lady Lawley, was also examined upon interrogatories, for publishing the same libel.—2 Barnardiston, K's B. 43.

Extract from Atkyns's Reports, Book 2, page 469.

First Seal after Michaelmas Term, December 3d, 1742.—A motion against the printer of The Champion, and the printer of The Saint James's Evening Post; that the former, who is already in the Fleet, may be committed close prisoner, and that the other, who is at large, may be committed to the Fleet, for publishing a libel against Mr. Hall and Mr. Garden (executors of John Roach, Esquire, late Major of

the garrison of Fort Saint George in the East Indies,) and for reflecting likewise upon Governor Mackay, Governor Pitt, and others, taxing them with turning affidavit-men, &c. in the Cause now depending in this Court; and insisting that the publishing such a paper is a high contempt of this Court, for which they ought to be committed.

Lord Hardwicke, Lord Chancellor,

Nothing is more incumbent upon Courts of Justice than to preserve their proceedings from being misrepresented; nor is there any thing of more pernicious consequence, than to prejudice the minds of the public against persons concerned as parties in causes, before the cause is finally heard\*. It has always been my opinion, as well as the opinion of those who have sat here before me, that such a proceeding ought to be discountenanced.

But to be sure Mr. Solicitor-General has put it upon the right footing, that notwithstanding this should be a libel, yet unless it is a contempt of the Court, I have no cognizance of it; for whether it is a libel against the public, or private persons, the only method is to proceed at law.

The Defendant's Counsel have endeavoured two things—1st. to shew this paper does not contain defamatory matter; 2dly, if it does, yet there is no abuse upon the proceedings of this Court: And therefore there is no room for me to interpose.

Now take the whole together, though the letter is artfully penned, there can remain no doubt in every common reader at a coffee-house but this is a defamatory libel.

It is plain therefore who is meant; and as a Jury, if this fact was before them, could make no doubt, so, as I am a Judge of facts as well as law, I can make none.

I might mention several strong cases, where even feigned names have been construed a libel upon those persons who were really meant to be libelled.

Upon the whole as to the libellous part, if so far there should remain any doubt whether the executors are meant, it is clear beyond all contradiction upon the last paragraph, in which are these words: "This case ought to be a warning to all fathers to take care with whom they trust their children and their fortunes, lest their own characters, their widows and their children be aspersed, and their fortunes squandered away in law-suits."

\* Vide *Baker v. Hart*, post. 488. *Mrs. Farley's Case*, 2 Ves. 520.

And likewise, though not in so strong a degree, the words "turned Affidavit-men," is a libel against those gentlemen who have made them.

There are three different sorts of Contempt:

One kind of Contempt is, scandalizing the Court itself.

There may be likewise a Contempt of this Court, in abusing parties who are concerned in causes here.

There may also be a Contempt of this Court, in prejudicing mankind against persons before the cause is heard.

There cannot be any thing of greater consequence than to keep the streams of justice clear and pure, that parties may proceed with safety both to themselves and their characters.

The case of Raikes, the Printer of the Gloucester Journal, who published a libel in one of the Journals against the Commissioners of Charitable Uses, at Burford, calling his advertisement, A Hue and Cry after a Commission of Charitable Uses, was of the same kind as this, and the Court in that case committed him.

There are several other cases of this kind: one strong instance, where there was nothing reflecting upon the Court, in the case of Captain Perry, who printed his brief before the cause came on; the offence did not consist in the printing, for any man may give a printed brief as well as a written one to Counsel; but the Contempt of this Court was, prejudicing the world with regard to the merits of the cause before it was heard.

Upon the whole, there is no doubt but this is a Contempt of the Court.

With regard to Mrs. Read, the Publisher of Saint James's Evening Post, by way of alleviation, it is said, that she did not know the nature of the paper; and that printing papers and pamphlets is a trade, and what she gets her livelihood by.

But though it is true this is a trade, yet they must take care to do it with prudence and caution; for if they print any thing that is libellous, it is no excuse to say that the printer had no knowledge of the contents, and was entirely ignorant of its being libellous, and so is the rule of Law, and I will always adhere to the strict rules of Law in these cases.

Therefore Mrs. Read must be committed to the Fleet, according to the common order of the Court upon Contempts.

But as to Mr. Huggonson, who is already a prisoner in the Fleet, I do not think this



any motive for compassion ; because these persons generally take the advantage of their being prisoners, to print any libellous or defamatory matter which is brought to them, without scruple or hesitation.

If these printers had disclosed the name of the person who brought this paper to them, there might have been something said in mitigation of their offence ; but as they think proper to conceal it, I must order Mrs. Read to be committed to the Fleet, and Huggonson to be taken into close custody of the Warden of the Fleet.

13th Vesey, jun. page 237.—Lord Erskine, Lord Chancellor. —Ex parte Jones.

Dec. 20, 23, 1806.—Commitment in the Jurisdiction of Lunacy for a Contempt, by the publication of a pamphlet. Ignorance of the contents will not excuse the Printer.

The object of this Petition was to remove the Committee of a Lunatic, and to bring before the Lord Chancellor an alleged Contempt by the Committee and his Wife and other persons, as the authors, printers and publishers of a Pamphlet, with an Address to the Lord Chancellor by way of dedication, reflecting upon the conduct of the Petitioner and others acting in the management of the affairs of the Lunatic under orders made in pursuance of the Trusts of a Will, the Affidavit representing the conduct of the Committee and his Wife intruding into the Master's Office, and interrupting him, not only in the business of this particular Lunacy, but all other business. The Wife of the Committee avowed herself to be the author of the Pamphlet, alleging the innocence of her husband.

The Solicitor-General (Sir Samuel Romilly) and Mr. Hart, in support of the Petition, were stopped by the Lord Chancellor, who called on the Counsel against it.

Mr. Plowden resisted the Petition, contending that the Petitioners had a remedy at law.

Lord Erskine : The Lord Chancellor.—As to remedy at Law, the subject of this application is not the libel against the Petitioner.—The case of *Reach v. Garvan* and another, there mentioned, were cases of constructive Contempt, depending upon the inference of an intention to obstruct the course of justice. In this instance, that is not left to conjecture ; and whatever may be said as to a constructive contempt through the medium of a libel

against persons engaged in controversy in the Court, it never has been nor can be denied, that a publication not only with an obvious tendency but with the design to obstruct the ordinary course of justice, is a very high contempt.—Lord Hardwicke considered persons concerned in the business of the Court as being under the protection of the Court, and not to be driven to other remedies against libels upon them in that respect.—But without considering whether this is or is not a libel upon the Petitioner, what excuse can be alleged for the whole tenor of this book, and introduced by this declaration of the purpose which the Author intended it to answer ? It might be sufficient to say of the book itself, stripped of the dedication, that it could be published with no other intention than to obstruct the duties cast upon the Petitioner, and to bring into contempt the orders that had been made. But upon the dedication this is not a constructive Contempt. It is not left to inference. In this dedication the object is avowed, by defaming the proceedings of the Court standing upon its Rules and Orders, and interesting the public, prejudiced in favour of the Author by her own partial representation, to procure a different species of judgment from that which would be administered in the ordinary course, and by flattering the Judge to taint the source of justice.—This Pamphlet has been sent to me.

As to the printers, Lord Hardwicke observes, it is no excuse that the printer was ignorant of the contents. Their intention may have been innocent ; but, as Lord Mansfield has said, the fact whence the illegal motive is inferred must be traversed, and the party admitting the act cannot deny the motive.—The maxim "*Actus non facit reum, nisi mens sit rea*," cannot be made applicable to this subject in the ordinary administrations of justice, as the effect would be that the ends of justice would be defeated by contrivance.—But upon the satisfactory account given by three of these printers, though undoubtedly under a criminal proceeding, they would be in mercy in a case of Contempt. Though I have the jurisdiction, I shall not use it.—The other printer appears upon the affidavits under different circumstances. Having made this observation, that this Pamphlet ought not to be printed, being totally uninteresting to the public, yet he does print it ; and though the *locus penitentiae* was afforded to him, and he was



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called upon not to print any more, he proceeded until he had notice of this Petition.

Let the Committee, and his wife and the Printer to whom I have last alluded, be committed to the Fleet Prison. Dismiss the Committee from that office; and direct a reference to the Master, as to the appointment of another Committee.

Extracts from Sir Eardley Wilmot's Opinions and Judgments; p. 253.

Hilary Term, 5 Geo. III.—1753.

The KING against ALMON.

[This opinion was not delivered in Court, the Prosecution having been dropped, in consequence, it is supposed, of the resignation of the then Attorney General; but after the death of this eminent and very learned Chief Justice, was found in his own hand-writing among his papers by his son, who published it in *Memoirs of his Life*, page 243. The occasion of it was a Motion in the Court of King's Bench, for an attachment against Mr. Almon, for a Contempt in publishing a Libel upon the Court, and upon the Chief Justice.]

"It has been argued that the mode of proceeding by Attachment is an invasion upon the ancient simplicity of the Law; that it took its rise from the Statute of Westminster, ch. 2.; and Gilbert's History of the Practice of the Court of Common Pleas, p. 20. in the first edition, is cited to prove that position. And it is said, that act only applies to persons, resisting process; and though this mode of proceeding is very proper to remove obstructions to the execution of process, or to any contumelious treatment of it, or to any contempt to the authority of the Court, yet that papers reflecting merely upon the qualities of Judges themselves, are not the proper objects of an attachment; that Judges have proper remedies to recover a satisfaction for such reflections, by actions of "*Scandalum Magnatum*;" and that in the case of a Peer, the House of Lords may be applied to for a breach of Privilege; That such Libellers may be brought to punishment by indictment or information; that there are but few instances of this sort upon Libels on Courts or Judges; that the Common Pleas lately refused to do it; that Libels of this kind have been prosecuted by Actions and Indictment; and that Attachments ought not to be extended to Libels of this nature, because Judges would be determining in their own cause; and

that it is more proper for a Jury to determine "*quo animo*" such Libels were published.

As to the origin of Attachments, I think they did not take their rise from the Statute of Westminster, ch. 2.; the passage out of Gilbert does not prove it; but he only says, 'the origin of commitments for contempt, seems to be derived from this Statute;' but read the paragraph through, the end contradicts the 'seeming' mentioned in the beginning of it; and shews, that it was a part of the Law of the Land to commit for contempt, confirmed by this Statute. And indeed when that Act of Parliament is read, it is impossible to draw the commencement of such a proceeding out of it. It empowers the Sheriff to imprison persons resisting process, but has no more to do with giving Courts of Justice a power to vindicate their own dignity, than any other chapter in that Act of Parliament.

"The power which the Courts of Westminster Hall have of vindicating their own authority, is coeval with their first foundation and institution; it is a necessary incident to every Court of Justice, whether of Record or not, to fine and imprison for a contempt to the Court, acted in the face of it, 1 Vent. 1. and the issuing of Attachments by the supreme Courts of Justice in Westminster Hall, for contempts out of Court, stands upon the same immemorial usage as supports the whole fabric of the Common Law; it is as much the "*Lex Terræ*," and within the exception of Magna Charta, as the issuing any other legal process whatever.

"I have examined very carefully to see if I could find out any vestiges or traces of its introduction, but can find none; it is as ancient as any other part of the Common Law; there is no priority or posteriority to be discovered about it, and therefore it cannot be said to invade the Common Law but to act in alliance and friendly conjunction with every other provision which the wisdom of our ancestors has established for the general good of society. And though I do not mean to compare and contrast Attachments with Trials by Jury, yet truth compels me to say, that the mode of proceeding by Attachment stands upon the very same foundation and basis as Trials by Jury do, immemorial usage and practice; it is a constitutional remedy in particular cases: and the Judges in those cases are as much bound to give an activity to this



part of the Law, as to any other part of it. Indeed it is admitted, that Attachments are very properly granted for resistance of process, or a contumelious treatment of it, or any violence or abuse of the Ministers or others employed to execute it. But it is said that the Courts of Justice in those cases is obstructed, and the obstruction must be instantly removed; that there is no such necessity in the case of Libels upon Courts or Judges, which may wait for the ordinary method of prosecution, without any inconvenience whatsoever. But where the nature of the offence of libelling Judges for what they do in their judicial capacities, either in Court or out of Court, comes to be considered, it does, in my opinion, become more proper for an Attachment than any other case whatsoever.

"By our Constitution, the King is the fountain of every species of Justice which is administered in this Kingdom, 12 Co. 25. The King is "*de jure*" to distribute justice to all his Subjects; and because he cannot do it himself to all persons, he delegates his power to his Judges, who have the custody and guard of the King's oath, and sit in the seat of the King "concerning his justice."

"The arraignment of the justice of the Judges is arraigning the King's justice; it is an impeachment of his wisdom and goodness in the choice of his Judges, and excites in the mind of the people a general dissatisfaction with all judicial determinations, and indisposes their minds to obey them; and whenever mens allegiance to the Laws is so fundamentally shaken, it is the most fatal and the most dangerous obstruction of justice, and, in my opinion, calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of the Judges, as private individuals, but because they are the channels by which the King's justice is conveyed to the people. To be impartial, and to be universally thought so, are both absolutely necessary for the giving justice that free, open and uninterrupted current, which it has for many ages found all over this kingdom, and which so eminently distinguishes and exalts it above all Nations upon the earth.

"In the moral estimation of the offence, and in every public consequence arising from it, what an infinite disproportion is there between speaking contumelious words of the rules of the Court, for which Attachments are granted constantly, and

coolly and deliberately printing the most virulent and malignant scandal which fancy could suggest upon the Judges themselves. It seems to be material to fix the ideas of the words 'Authority' and 'Contempt of the Court,' to speak with precision upon the question.

"The Trial by Jury is one part of that system, the punishing Contempts of the Court by Attachment is another: we must not confound the modes of proceeding, and try contempts by Juries, and murders by Attachment; we must give that energy to each which the Constitution prescribes. In many cases, we may not see the correspondence and dependance which one part of the system has and bears to another; but we must pay that deference to the wisdom of many ages as to presume it. And I am sure it wants no great intuition to see, that Trials by Juries will be buried in the same grave with the Authority of the Courts who are to preside over them."

Trinity Term, 8 Geo. III.—Writs of Attachment were granted against Staples Steare, John Williams, and John Pridden, for Contempt, in publishing the North Briton Extraordinary, No. 4, containing a Letter addressed to Lord Mansfield, Lord Chief Justice, containing gross reflections on his Lordship.

They were all examined upon interrogatories, and reported in Contempt.

And in Michaelmas Term, 9 Geo. III. Steare was sentenced to be imprisoned three calendar months.

#### RESOLUTIONS, PETITIONS, REMONSTRANCES, &c. on the LIBERTY OF THE SUBJECT and PARLIAMENTARY REFORM, 1810.

(Continued from p. 941.)

*Copy of the LETTER of Sir Francis Burdett,  
in Answer to that sent to him by the In-  
habitants of Liverpool.*

*Tower, May 27, 1810.*

Gentlemen—I feel myself much honoured by the letter delivered to me by Mr. Crump, signed by so large and respectable a body of the inhabitants of Liverpool. Their approbation, and that of the rest of my fellow subjects, I shall ever be proud of obtaining, by a faithful discharge of my duty, in whatever situation I may happen to be placed; and I certainly shall never be deterred from doing it by any exertion of illegal power. In vain would our forefathers have struggled

against assumed prerogative in the King, should we tamely submit to an equally arbitrary power, miscalled privilege, in the House of Commons. In former times judges have been afraid of interfering with the Prerogative of the King; let us hope that the judges of the present day will be afraid of nothing but of acting contrary to the law; in which case we shall never again hear of an unknown, mysterious, undefined, unlimited power above the law, yet making part of the law, and uncontrolled, save only by the caprice of those who exercise it. To secure our country against so dangerous an usurpation in any branch of the Legislature, by means of a freely-elected House of Commons, will ever be the object of my most earnest endeavours; and will, I flatter myself, also be the best means of continuing the esteem and good opinion so handsomely expressed to me in your letter which I have just had the honour of receiving. I remain, Gentlemen, Your most obedient, very humble Servant, FRANCIS BURDETT.

#### BOROUGH OF SOUTHWARK.

At a Meeting of the ELECTORS of the TOWN and BOROUGH of SOUTHWARK, held at the Town Hall, on St. Margaret's Hill, on Wednesday the 13th day of June, 1810, convened at the request of many respectable Electors of the said Borough.—Mr. JOHN TOWNSHEND, Deputy Bailiff, in the Chair, at the request of Sir WATKIN LEWES, High Bailiff of the said Borough.

Resolved, That this Meeting are anxious to support all the just Rights and Privileges of the House of Commons, but that they consider the imprisonment of John Gale Jones, without a Trial by Jury, and the forcible entry of the house of Sir Francis Burdett, under the authority of that Honourable House, as an extraordinary exercise of power, which they are convinced is contrary to the birth-right of Englishmen, contained in the Great Charter of the land.

That they humbly conceive that such prompt imprisonment has been proved by the Honourable the House of Commons as unnecessary to support its justice and dignity, in a recent case of libel, in which it was stated, that the Monarchy was a goodly tree, and that the branches consisting of Lords and Commons, might safely be lopped off, which said libel was, by the Honourable House, referred to a Jury.

Resolved, That it appears to this Meet-

ing, that the only effectual method of securing the great barriers of public liberty, of uniting the hearts of all honest men against their foreign and domestic enemies, of preserving the revenues of the country from fraud and speculation, and of giving stability and confidence to that glorious constitution, which has been preserved under Providence, by the struggles and resistance of the Sydneys and Russels, and other distinguished patriots, against arbitrary power, is by a speedy and effectual Reform in the Commons House of Parliament.

That such Reform is sanctioned by the Honourable House itself, as they have extended the rights of suffrage in the case of Cricklade, Shoreham, and Aylesbury, where bribery is proved against electors, but no notice is taken of the sale of seats in that House, "at the bare mention of which, our ancestors would have startled," because such sale is as common as the sun at noon day.

Resolved, That the thanks of this Meeting be given to Sir Francis Burdett, for his distinguished patriotism in resisting those measures which he considers illegal, and for his ardent zeal to preserve the rights and liberties of Englishmen, for his able and judicious Argument in support of those opinions, for his general Parliamentary conduct, and for his uniform endeavours to obtain a thorough and radical Reform in the representation of the Commons House of Parliament.

That the Deputy High Bailiff, with a Deputation of the Electors, be requested to convey the above Resolution to Sir Francis Burdett.

Resolved, That a humble Petition and Remonstrance, be presented to the Honourable House of Commons.

Resolved, That this Petition be signed by the Deputy High Bailiff.

And that the Representatives of this Borough be requested to present the same, and instructed to support it, and to take an early opportunity to move, in the next Session, for an effective Reform in Parliament.

Resolved, That a humble Petition be presented to his Majesty, praying him to discharge his present Ministers, and dissolve Parliament.

Resolved, That the Petition proposed be fairly transcribed, and presented to his Majesty by a Deputation of the Electors and our Representatives, Henry Thornton, Esq. and Sir T. Urton, Bart.



Resolved, That the thanks of this Meeting be given to the Rt. Hon. Lord Erskine, Sir Samuel Romilly, Knt. and Samuel Whitbread, Esq. for their general Parliamentary conduct, and their dignified support of the rights of the people.

Resolved, That the thanks of this Meeting be returned to Henry Thornton, Esq. and Sir Thomas Turton, Bart. our Representatives, for their steady support of Mr. Brand's motion for a Reform in the Representation of this country.

Resolved, That the thanks of this Meeting be given to the High Bailiff, for his readiness in calling this Meeting, and the Deputy High Bailiff for his impartial conduct in the Chair.

Resolved, That these Resolutions be printed in some of the Morning and Evening papers.

JOHN TOWNSIEND, Chairman.

#### OFFICIAL PAPERS.

AMERICA.—*Mr. Pinckney's Correspondence with Marquis Wellesley.*

Mr. Pinckney, in his letter to the Marquis Wellesley, of the 2d January, 1810, communicates the necessity of dismissing Mr. Jackson, and the desire of the President that he might be immediately recalled, and proceeds to observe :

"The President has been pleased to direct that I should make known this necessity to his Majesty's Government, and at the same time request that Mr. Jackson should be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my Lord, to make his Majesty's Government sensible, that in requiring the recal of Mr. Jackson the United States wish not to be understood as in any degree obstructing communications which may lead to a friendly accommodation; but that on the contrary, they sincerely retain the desire which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the Minister, who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete

success of his mission, or if the attainment of this object through my agency should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.—I have now only to add, my Lord, the expressions of my own most ardent wish, that out of the accident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective Governments, may conduct them to cordial and lasting friendship. Thus to endeavour to bring good out of evil, would be worthy of the rulers of two nations, that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the happiness and prosperity of each other. I have the honour to be, &c. &c. WM. PINCKNEY."

*The most noble the Marq. Wellesley, &c.*

*Foreign Office, March 14, 1810.*

"Sir;—The letter which I had the honour to receive from you under date of 2d January, together with the additional paragraph received on the 24th January, has been laid before the King.—The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you, that it is the sincere desire of his Majesty's Government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.—The correspondence between Mr. Jackson and Mr. Smith has been submitted to his Majesty's consideration.—His Majesty has commanded me to express his concern, that the official communication between his Majesty's Minister in America and the Government of the United States, should have been interrupted, before it was possible for his Majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.—I am commanded by his Majesty to inform you, that I have received from Mr. Jackson the most positive assurances, that it was not his purpose to give offence to the Government of the United States, by any expression contained in his letters, or by any part of his conduct.—The expressions and conduct of his Majesty's Minister in America having, however, appeared to the Government of the United States to be exceptionable, the usual course in such cases would have

been, to convey, in the first instance, to his Majesty, a formal complaint against his Minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.—This course of proceeding would have enabled his Majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience which must always arise from the suspension of official communication between the friendly powers.—His Majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of States in amity with him; and he has therefore been pleased to direct the return of Mr. Jackson to England.—But his Majesty has not marked with any expression of his displeasure the conduct of Mr. Jackson, whose integrity, zeal, and ability, have long been distinguished in his Majesty's service, and who does not appear on the present occasion, to have committed any intentional offence against the Government of the United States.—I am commanded to inform you, that Mr. Jackson is ordered to deliver over the charge of his Majesty's affairs in America to a person properly qualified to carry on the ordinary intercourse between the two Governments, which his Majesty is sincerely desirous of cultivating on the most friendly terms.—As an additional testimony of this disposition, I am authorized to assure you, that his Majesty is ready to receive, with sentiments of undiminished amity and good will, any communication which the Government of the United States may deem beneficial to the mutual interest of both countries, through any channel of negotiation which may appear advantageous to that Government.—I request you will accept the assurances of the high consideration with which I have the honour to be, Sir, &c. **WELLESLEY."**

*William Pinckney, Esq. &c.*

*Letter from Mr. Adair to the British Consul at Smyrna, dated Constantinople, Feb. 22.*

"Sir—His Majesty having been graciously pleased to permit me to return to England, I have to acquaint you, that, unless very unexpected events should detain

me, it is my intention to leave Constantinople whenever the season becomes favourable.—I should long ago have executed this intention, had I not perceived that the peace between Austria and France, and especially that article of the Treaty, which carries the boundary of France to the Saave, revived a hope in our enemies, of engaging the Porte to break with Great Britain.—France had insisted on having created, evidently with a view of dictating the law at Constantinople. That her first act of good neighbourhood towards the Turks, would be to compel them, if possible, to go to war with us; no man could doubt. That she would succeed I never had the slightest apprehension; yet, with the fullest reliance on the good faith and honour of the Porte, I did not think it right to quit the affairs of the British Embassy in a moment of even apparent difficulty, nor to sanction, by my sudden departure, the idle reports that had been disseminated, of approaching hostilities with this country.—The event has, in every way, answered my expectation; the threats of France are disregarded, every demand, injurious to our friendly relations with Turkey, has been rejected with indignation, and our enemies are themselves convinced, they will best consult their own interest by abstaining from a repetition of their own proposals.—Under these circumstances I quit the Embassy, without a fear for the stability of peace, and with the assurance that this powerful Empire is determined to assert its independence to the last, to adhere to its Treaties, and, if necessary to put forth its whole force to maintain them. "R. ADAIR."

*"Francis Merry, Esq.*

*British Consul, Smyrna."*

## COBBETT'S

### Parliamentary Debates:

The Fifteenth Volume of the above Work is in the Press, and will be published with all proper dispatch. All Communications will be carefully attended to; but it is particularly requested that they may be forwarded as early as possible.